

BRB No. 98-0403 BLA

IDA COLEMAN	)	
(Widow of MOSES COLEMAN)	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
EASTERN COAL CORPORATION	)	DATE ISSUED:
	)	
Employer-Respondent	)	
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order of James Guill, Administrative Law Judge, United States Department of Labor.

William Lawrence Roberts, Pikeville, Kentucky, for claimant.

Ronald E. Gilbertson (Kilcullen, Wilson & Kilcullen, Chartered), Washington, D.C., for employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order (91-BLA-2307) of Administrative Law Judge James Guill denying benefits on a survivor's claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq.* (the Act). The administrative law judge adjudicated this survivor's claim pursuant to the regulations contained in 20 C.F.R. Part 727. The administrative law judge found the evidence sufficient to establish rebuttal of the interim presumption pursuant to 20 C.F.R. §727.203(b)(1) and (b)(3). Accordingly, the administrative law judge found the evidence insufficient to establish

a mistake in a determination of fact pursuant to 20 C.F.R. §725.310<sup>1</sup> and, thus, he

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<sup>1</sup>Claimant filed her survivor's claim on October 30, 1978. Director's Exhibit 1. On September 30, 1981, Administrative Law Judge John Roger Corcoran issued a Decision and Order awarding benefits, Director's Exhibit 40, which the Board vacated and the Board remanded the case for further consideration of the evidence, *Coleman v. Eastern Coal Corp.*, 6 BLR 1-757 (1983). On remand, the case was reassigned to Administrative Law Judge Freeman C. Murray who issued a Decision and Order denying benefits based on rebuttal of the interim presumption at 20 C.F.R. §727.203(b)(1) and (b)(3) on March 31, 1986, Director's Exhibit 53, which the Board affirmed, *Coleman v. Eastern Coal Corp.*, BRB No. 86-0959 BLA (July 21, 1989)(unpub.). The United States Court of Appeals for the Sixth Circuit affirmed the Board's decision on May 21, 1990. *Coleman v. Eastern Coal Co.*, No. 89-3752 (6th

denied benefits. On appeal, claimant generally contends that the administrative law judge erred in finding the evidence insufficient to establish a mistake in a determination at 20 C.F.R. §725.310. Employer responds, urging affirmance of the administrative law judge's Decision and Order. The Director, Office of Workers' Compensation Programs, has declined to participate in this appeal.

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Cir. May 21, 1990)(unpub.). Claimant requested modification on March 22, 1991. On April 24, 1991, the Department of Labor denied claimant's request for modification, Director's Exhibit 73, and claimant requested a hearing, Director's Exhibit 75. Employer filed a Motion for Summary Judgment with the Office of Administrative Law Judges on July 12, 1991. On June 1, 1993, Administrative Law Judge James Guill issued an Order which granted employer's motion for summary judgment and request for sanctions, and denied claimant's request for modification. Further, Judge Guill issued a Supplemental Order which denied employer's request for costs in the form of attorney's fees on August 19, 1993. In addition, Judge Guill issued an Order denying employer's request for reconsideration on December 7, 1993. The Board vacated Judge Guill's June 1, 1993 Order, and remanded the case for further consideration of the evidence regarding modification. *Coleman v. Eastern Coal Corp.*, BRB Nos. 93-1786 BLA and 93-1786 BLA-A (July 28, 1994)(unpub.). Moreover, the Board granted employer's request for *en banc* reconsideration, but denied the relief requested. *Coleman v. Eastern Coal Corp.*, BRB Nos. 93-1786 BLA and 93-1786 BLA-A (Feb. 27, 1997)(Decision and Order on Motion for Reconsideration *En Banc*)(unpub.).

The Board's scope of review is defined by statute. If the administrative law judge's findings of fact and conclusions of law are supported by substantial evidence, are rational, and are consistent with applicable law, they are binding upon this Board and may not be disturbed. 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant generally contends that the administrative law judge erred in finding the evidence insufficient to establish a mistake in a determination of fact at 20 C.F.R. §725.310. However, claimant does not delineate how the administrative law judge erred in his analysis of the evidence at 20 C.F.R. §725.310. Claimant merely notes that she “has submitted medical reports and lay evidence, which indicates [that the miner] was totally disabled due to pneumoconiosis at the time of his death.” Claimant’s Brief at 2. Thus, claimant has failed to allege any specific error in the administrative law judge’s findings or legal conclusions, and as such, claimant fails to provide a basis upon which the Board may review the administrative law judge’s findings. See *Cox v. Benefits Review Board*, 791 F.2d 445, 9 BLR 2-46 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107 (1983). Therefore, we affirm the administrative law judge’s finding that the evidence is insufficient to establish a mistake in a determination of fact pursuant to 20 C.F.R. §725.310, see *Consolidation Coal Co. v. Worrell*, 27 F.3d 227, 18 BLR 2-290 (6th Cir. 1994), and his denial of benefits.

Accordingly, the administrative law judge's Decision and Order denying benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

ROY P. SMITH  
Administrative Appeals Judge

REGINA C. McGRANERY  
Administrative Appeals Judge